

## **Attachment 6**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

[SCHEDULED FOR ORAL ARGUMENT ON FEBRUARY 23, 2023]

**In re: Sealed Case**

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**Case No. 23-3001**

**FILED UNDER SEAL**

**SUR-REPLY OF THE UNITED STATES TO  
MOTION TO ALLOW ACCESS TO THE SEALED RECORD**

On January 25, 2023, Representative Scott G. Perry contacted the government to ask if the government would object to a request to this Court for (1) “permission to provide the Office of General Counsel of the US House of Representatives access to the sealed record so that it may consider filing an amicus brief,” and (2) “a short extension of the schedule so that the Office of General Counsel can conduct its review of the issues involved.” The government informed Rep. Perry that it objected to both requests.

Accordingly, after Rep. Perry filed a motion to “allow access to the sealed record by designated persons in the Office of the General Counsel for the U.S. House of Representatives,” Motion at 4, the government opposed that request. The government stated that it would be “open to consideration of a narrower unsealing request if Rep. Perry were to identify specific documents (by ECF number) *and specific portions of those documents containing non-factual legal discussion*

*and analysis* that he believes would assist House Counsel in determining whether to file an amicus brief.” Gov’t Response at 4 (emphasis added).

Rep. Perry has now for the first time requested the unsealing of specific documents that he would like to provide to House Counsel. But he has not limited his request to specific portions of those documents containing non-factual legal discussion and analysis. And he has done so in a reply brief filed at approximately 5 p.m. on a Friday evening, leaving the government with no opportunity to provide its views on whether unsealing of those documents in whole or in part would be appropriate or potentially compromise an ongoing investigation.

The government respectfully requests that the Court provide the government until 3 p.m. on Monday, January 30, 2023, to review the documents listed by Rep. Perry for potential unsealing. If the parties can come to an agreement, this Court’s intervention would be unnecessary, preserving judicial resources.

Respectfully submitted,  
JACK SMITH  
Special Counsel

By: /s/ John M. Pellettieri  
John M. Pellettieri  
Assistant Special Counsel

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## **ADDENDUM**

### **Certificate of Parties and Amici Curiae**

The parties that appeared in the district court and that are now before this Court are the United States and Representative Scott Perry. There are no amici curiae or intervenors.

## **CERTIFICATE OF COMPLIANCE**

I hereby certify that this response satisfies the type-volume limitation in Fed. R. App. P. 27(d)(2)(A), because it contains 321 words. The foregoing also complies with the typeface and type-style requirements of Fed. R. App. P 32(a)(5) and Fed. R. App. P 32(a)(6) because it has been prepared in proportionally spaced, 14-point font serif typeface using Microsoft Word for Microsoft 365.

/s/ John M. Pellettieri  
John M. Pellettieri  
Assistant Special Counsel

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## CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit via email on January 27, 2023. I certify that service will be accomplished to following counsel for Representative Scott Perry by email:

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